

### Judge Robb, cont.

Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal

profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and Chaired the 2010 ABA's Appellate Judges Council - Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Chief Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a Lieutenant on active duty in the United States Navy.

### Judge Riley, cont.

al legal experience. In 2008, she co-founded the Legal Aid Centre of Eldoret, Kenya (LACE), which provides legal access to justice in the AMPATH medical center for its HIV/AIDS patients.

In 2011, Judge Riley traveled with the Washington, D.C.-based International Judicial Academy to The Hague, Netherlands, to observe the International Criminal Court and two International Criminal Tribunals that are hearing cases from Sierra Leone and the former Yugoslavia.

In 2012 she participated in the 3rd Sino-U.S. Law Conference, which was held in Beijing at the National Judges College of the People's Republic of China, which oversees all aspects of that country's judicial training, placement and promotion.

Judge Riley is the mother of two sons. She was retained on the Court by election in 1996 and 2006.

### Judge Bradford, cont.

duction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attor-

ney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and case management. He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with preschool-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

## COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE PERRY MERIDIAN HIGH SCHOOL

### *Sesay v. State*

#### CRIMINAL LAW ISSUE:

Whether sufficient evidence supports the trial court's determination that the Appellant's actions, while intoxicated, endangered himself and alarmed a police officer.

#### ORAL ARGUMENT:

Tuesday, Feb. 11, 2014  
1 p.m.

#### APPEAL FROM:

Marion Superior Court  
The Honorable  
Linda E. Brown, Judge

### Synopsis: *Case No. 49A02-1305-CR-434*

When Officer Jones of the Indianapolis Metropolitan Police Department investigated an accident on the west side of town in the early morning, he found the defendant, David Sesay, standing several feet off the road beside a vehicle that was partially sloping into a drainage ditch.

Officer Jones smelled the strong odor of alcohol and saw that Sesay had vomited on himself. Sesay also had bloodshot eyes and was barely able to stand without assistance. Officer Jones believed Sesay was "highly intoxicated" and felt he could not leave him alone because bars were closing, there were not a lot of lights in the area, and Sesay was close enough to the road that Officer Jones feared he would be hit by a car.

Officer Jones placed him under arrest for public intoxication and moved him away from the road while they waited for transport to the jail.

A person is guilty of public intoxication if he or she is intoxicated in a public place and is endangering his or her own life or someone else's life, is breaching or about to breach the peace, or is harassing, annoying, or alarming another person.

There is no question Sesay was in a public place, and he has not argued that he was not intoxicated. The question is whether he was endangering his life or alarmed Officer Jones. The trial court found that he was endangering his own life and that Officer Jones was alarmed by his behavior, and found him guilty of public intoxication.

Sesay appeals to this court making

a sufficiency of the evidence argument. He argues that simply standing alongside a car that was off the side of the road did not endanger him and that his behavior did not alarm Officer Jones in the way the statute means.

When a defendant makes a sufficiency of the evidence argument on appeal, the court is not allowed to look at the evidence independently and decide whether it thinks the defendant was guilty of each element of the charge. Instead, the court looks at the evidence that supports the decision and decides whether the trial court (or the jury, if there was one) could have thought the defendant was guilty of every element based on that evidence. If the trial court could

- continued on p. 2

Synopsis, cont.

have, then the defendant’s conviction will be affirmed. If not, it will be reversed.

Four cases have been decided by this court under the current definition of public intoxication. In two, this court agreed the evidence was sufficient to find the defendant guilty: Where two people backed away from the defendant when he yelled and walked aggressively toward them, we agreed with the trial court that the defendant alarmed them;

And where police had to use force to move the defendant onto the sidewalk after he refused to move out of the street on his own, we agreed with the trial court that the defendant endangered himself or others or breached the peace.

In the other two, this court decided the evidence was not sufficient to find the defendant guilty: Where the

defendant left his home where he had been assaulted and walked to a public place to call for help, we disagreed with the trial court that the defendant was endangering himself or breaching the peace because he was actually trying to remove himself from the danger;

And where a police officer leaving a gas station restroom saw the intoxicated defendant talking to the cashier and noticed a car in the parking lot that had not been there before but did not see the defendant drive, we disagreed with the trial court that the evidence showed the defendant endangered anyone by driving to the gas station.

Sesay argues the facts of his case are more like the cases where this court has disagreed with the trial court, and asks that we reverse his conviction for public intoxication.

Attorneys for the Parties

For the Appellant

**Timothy Burns** is a 1968 graduate of Iowa Wesleyan College with a B.A. in Economics and Business Administration. Following service as an officer in the U.S. Navy, Mr. Burns obtained his J.D. from Indiana University-Indianapolis School of Law in 1973. Mr. Burns served as a Deputy Indiana Attorney General followed by service as a public defender in the Marion County Criminal Court. Mr. Burns has been in the private practice of law in Indianapolis since graduation from law school. He is a member of the Indiana State Bar Association and a Distinguished Fellow of the Indianapolis Bar Association. Mr. Burns has served as a member of the Indianapolis Bar Association Grievance Committee for almost 30 years. He and his wife, Carol, have been married 44 years and have four grown children. They reside in Indianapolis.

For the Appellee

**Chandra K. Hein** has been employed with the Office of the Indiana Attorney General since 2011. She began as a Deputy Attorney General in the Criminal Appeals Section in 2012. Ms. Hein was raised in Spokane Valley, WA and graduated from Samford University in 2006, majoring in Music. She earned her law degree from Indiana University Robert H. McKinney School of Law in 2012, where she was a member of the Order of the Barristers, served on the moot court board, competed at the Mardi Gras Sports Law National Moot Court Competition, and was president of the Federalist Society. In a prior career, Ms. Hein worked for the Florida House of Representatives.

Appeals on Wheels

The Court of Appeals hears oral arguments across Indiana to enable Hoosiers to learn more about the judiciary’s indispensable role in Indiana government. Since its 2000-2001 centennial, the Court has held more than 375 “traveling oral arguments” at law schools, colleges, high schools and other venues. Today’s event is the Court’s second traveling oral argument this year.

Court of Appeals tidbits

- Six of the court’s first 19 judges served in the Civil War, all as Union soldiers or officers. Judge Posey Kime, born 1896, was the first to serve in WW1.
- Nine Court of Appeals judges have later served the Indiana Supreme Court, including current Justice Robert D. Rucker.
- Judge Frank M. Powers served just 33 days. The longest serving judge by far is Patrick D. Sullivan Jr., at more than 16,000 days. He retired in 2007 but still serves as a senior judge.
- One of the five original members of the court, Jeptha New, died from a self-inflicted pistol shot in 1892. His term of office was completed by his son, Willard New.
- Another father-son pair also served on the court: Ralph N. Smith and son Russell W. Smith. An uncle-nephew pair also served: Edgar D. Crumpacker and nephew Harry L. Crumpacker.
- Memorably named judges include Henry Clay Fox, Daniel Webster Comstock, Cassius Clay Hadley and Ira Batman.
- Judge John C. McNutt’s son, Paul McNutt, was Indiana governor from 1933-37 and appointed two judges to the Court of Appeals.
- One foreign-born judge attained the court: George L. Reinhard was born in Bavaria in 1843, served in the Civil War and wrote “The Common Sense Lawyer.”
- Judge Thomas Faulconer made Indiana history when, as a Marion County judge, he opened his courtroom doors to TV and newspaper cameras for a celebrated murder trial in 1959.
- Judge Joseph H. Shea resigned his Appeals Court seat in 1916 to become President Woodrow Wilson’s ambassador to Chile.

Today’s Panel of Judges

The Honorable  
Margret G. Robb  
(Tippecanoe County)

**Margret G. Robb** was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Ban-non. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as **Chief Judge**; the first woman to hold that position in the Court’s more than 100 year history. Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender. She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association. She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute. She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the Indiana State Bar

- continued on p. 4

The Honorable  
Patricia A. Riley  
(Jasper County)

**Patricia A. Riley** was named to the Court of Appeals of Indiana by Governor Evan Bayh in January of 1994. A native of Rensselaer, Indiana, Judge Riley earned her bachelor’s degree from Indiana University-Bloomington in 1971 and her law degree from the Indiana University School of Law-Indianapolis in 1974. Early in her career she served as a Deputy Prosecutor in Marion County and a public defender in Marion and Jasper counties before entering into private practice in Jasper County. She served as a judge of the Jasper Superior Court from 1990 to 1993. She is a former associate professor at St. Joseph's College in Rensselaer and currently an adjunct professor at the Indiana University School of Law -Indianapolis. Judge Riley’s legal memberships include the Indianapolis Bar Association, the Marion County Bar Association, and the Indiana State Bar Association, including co-chair of the ISBA’s Racial Diversity in the Profession Section; member, Women in the Law Committee; and member, Committee on Improvements in the Judicial System. Judge Riley is the former chair of the Appellate Practice Section of the American Bar Association, and a member of the ABA’s Judicial Division International Courts Committee. She is a member of the Indiana Judges Association and the Board of Directors of the National Association of Women Judges. Judge Riley’s civic associations include being on the Board of Directors of the Greater Indianapolis Health Foundation, Board of Directors of Global Peace Initiatives, Board of Directors and Treasurer of the Indiana University School of Law – Indianapolis Alumni Association, and a member of the Indianapolis Rotary Club. She also has extensive internation-

- continued on p. 4

The Honorable  
Cale J. Bradford  
(Marion County)

**Cale J. Bradford** has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice. He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election. Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court. During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative Initiative, which resulted in a comprehensive yet responsible re-

- continued on p. 4